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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/661,229	09/12/2003	Joseph R. Hedrick	0112300-612	6841

29159 7590 04/26/2007
BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

EXAMINER

SAGER, MARK ALAN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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04/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Abandoned

RECEIVED
BELL, BOYD & LLOYD
INTELLECTUAL PROPERTY DOCKET

APR 30 2007

ATTY: *Adm-RYS*
DOCKET #: *112300*

0612

Notice of Abandonment

Application No.

10/661,229

Examiner

M. A. Sager

Applicant(s)

HEDRICK ET AL.

Art Unit

3712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 8/28/06 and 11/3/06.
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply (including a total extension of time of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
 - (d) ☒ No reply has been received *that corrects noted deficiencies and places application in condition for allowance. need*
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$_____ is insufficient. A balance of \$_____ is due.
The issue fee required by 37 CFR 1.18 is \$_____. The publication fee, if required by 37 CFR 1.18(d), is \$_____.
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet



M. A. Sager
Primary Examiner
Art Unit: 3712

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Other reasons for holding abandonment: In accordance with 37CFR 1.111 (b) and (c), a reply must address all rejections in prior action including presenting arguments pointing out the distinctions believed to render the claims, including any newly presented claims, patentable as noted in Notice and further, must provide support for any amendment to claims from originally filed disclosure. However, in the reply filed 1/3/07 and 8/28/06, no remarks are provided regarding patentable distinction over the references in combination under 103 obviousness holdings and the stated support of fig. 11, page 39 and 52-53 does not address all steps/features in form as presently claimed. Further, per MPEP 714.03, once an inadvertent omission is brought to the attention of the applicant (as was provided in Notice mailed Nov 3, 2006), the question of inadvertence no longer exists and a second office action giving another time period to supply the omission would not be appropriate under 37 CFR 1.135(c). In this case, the reply received Jan 3, 2007 does not correct the deficiencies stated in cited Notice, thus it cannot be deemed to be a bona fide attempt to advance prosecution and inadvertence as stated in 37 CFR 1.135(c) no longer exists, therefore, the examiner is without authority to postpone decision as to abandonment of this application per MPEP 714.03.



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ATTY: _____

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AHM-RYS
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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10/661,229	9/12/03	HEDRICK ET AL.	01-2300-612

BELL, BOYD & LLOYD LLP
P.O. Box 1135
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M. A. Sager

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03292007

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Commissioner for Patents

Applicant is notified that no additional time is granted with this Notice of non-responsive amendment such that time period to respond to prior Notice mailed Nov 3, 2006 continues from its date of mailing. The office has determined that the supplemental amendment rec'd Jan 3, 2007 is NOT a bona-fide attempt to respond to prior Notice since reply continues to fail to address obviousness holdings and thus reply contains a serious omission, as per MPEP 7 4.03, for failing to respond to all rejections. It is noted that the cited supplemental amendment continues to respond to anticipation holdings with no remark regarding obviousness. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of 37 CFR 1.111. In this case, the cited reply presents a general allegation of patentability and no arguments regarding either error of obviousness holding or specifically pointing out how the language of the claims patentably distinguishes over applied references in obviousness holding.

The practice set forth in 37 CFR 1.135(c) does not apply where there has been a deliberate omission of some necessary part of a complete reply; rather, 37 CFR 1.135(c) is applicable only when the missing matter or lack of compliance is considered by the examiner as being "inadvertently omitted." In this instance, Applicant was notified of deficiencies in action mailed 11/3/06 that included statements indicating reply to obviousness holdings was lacking. The cited supplemental reply again fails to address the noted obviousness holdings in order to respond to all rejections per requirements of 37 CFR 1.111. Once an inadvertent omission is brought to the attention of the applicant, the question of inadvertence no longer exists. Therefore, a second Office action giving another new (1 month) time period to supply the omission would not be appropriate under 37 CFR 1.135(c). See MPEP 714.03.

Since the submission is not a bona fide attempt to provide a complete reply to the prior Notice and since there is sufficient time remaining for applicant's reply to be filed within the time period for reply to the prior Notice (or within any extension pursuant to 37 CFR 1.136(a)), applicant is notified that the omission must be supplied within the time period for reply (no additional time from prior action is granted). However, Applicant may extend prior time period from prior Notice pursuant to 37 CFR 1.136(a).


M. A. Sager
Primary Examiner
Art Unit: 3712